

REMARKS

This application has been carefully reviewed in light of the Office Action dated November 24, 2009. Claims 1 to 18 and 22 to 33 are in the application, of which the following claims are independent: Claims 1, 7, 13, 22, 26 and 30. Reconsideration and further examination are respectfully requested.

Objections were lodged against the specification and the drawings. According to these objections, the Office asserted that the acronym "SMILE" should be changed to "SMIL". The objections are respectfully traversed. In particular, as explained at page 8 of the instant application, at lines 11 to 36, it was a deliberate decision to use the acronym "SMILE" rather than "SMIL", wherein the final "E" designates a SMIL extension:

"Also shown in Figure 4 is disk 3, having stored thereon the aforementioned windowing operating system, a web browser with capability for displaying XML-based multimedia presentations (for example, by a plug-in), *XML-based source files according to the present invention, which, for convenience sake, are hereinafter referred to as Synchronized Multimedia Integration Language Extended (SMILE) source files*, a SMILE file editor application, other applications, other data files and device drivers."
(Emphasis added.)

It is possible that the Office is under a misunderstanding that "SMIL" is the same as "SMILE". This would be a mistake. The application herein describes a number of extensions to a then-existing SMIL standard, for which the inventor coined the acronym "SMILE". Various features of these extensions form the subject matter claimed herein. As understood by the inventor, and as apparently conceded by the Office which has not

entered a rejection for anticipation over the SMIL standard, these features were not part of the then-existing SMIL standard. Accordingly, it is respectfully asserted that "SMIL" and "SMILE" are not the same, and should not be viewed by the Office as the same.

Naturally, the claims herein are not limited to an actual extension to the SMIL standard, but rather are broad enough to cover any implementation embodying the features of the claims, regardless of whether such an implementation is or is not an extension to "SMIL". It should therefore be understood that "SMILE" as used in the instant application is simply one example of a possible implementation according to the claims.

Withdrawal of the objections to the drawings and specification is respectfully requested.

All claims were rejected under 35 U.S.C. § 103(a), primarily over a W3C working draft authored by Bugaj in view of U.S. Patent 6,442,755 (Lemmons) and U.S. Patent 6,615,408 (Kaiser). As shown above, minor amendments have been made to the preambles of the claims, but these amendments are not seen to effect a substantial change in the scope of the claims, nor was any such substantial change intended. Accordingly, this should be viewed as a traversal of the rejection, as explained more fully below.

The claims relate generally to an XML-based element for a visual cue associated with a visual component of a multimedia presentation. The display of the visual cue is superimposed over the display of the visual component in the multimedia presentation. To determine the visual appearance, timing and placement of the visual cue's

display over the visual component, the XML-based element contains all three of the following attributes:

- (a) a visual element attribute that defines a visual representation of the visual cue;
- (b) a spatial element attribute that defines spatial characteristics of the visual cue; and
- (c) a temporal element attribute that defines temporal characteristics of the visual cue.

Thus, the visual cue is displayed over the visual component of the multimedia presentation, using a visual appearance as defined in the visual element attribute of the XML-based element, during a period of time as defined in the temporal element attribute of the XML-based element, and at a location as defined in the spatial element attribute of the XML-based element.

In entering its rejection, the Office conceded that Bugaj does not mention any of the aforementioned features. See Office Action dated November 24, 2009 at pages 3 and 4. Instead, the Office relied on the disclosure of Lemmons and Kaiser for its assertion that these features were known and would have been obvious to incorporate into Bugaj. Applicant respectfully disagrees.

Lemmons is directed to guide systems for interactive television programs, and is said to provide for the flexible modification of screen layouts for the program guide as well as guide functionality. In portions of Lemmons cited and relied on by the Office Action, Lemmons indicates that screen 308 (illustrated in Figures 7A or 6B) is generated

based on a markup language document 300. See Lemmons, column 8, line 58 through column 9, line 35.

As interpreted by the Office Action, Lemmons was relied on for alleged teachings of a visual element attribute that defines a visual representation of a visual cue, a spatial element attribute that defines spatial characteristics of the visual cue, and a temporal element attribute that defines temporal characteristics of the visual cue. Moreover, it was asserted that the cited portions of Lemmons describe the property wherein temporal and spatial characteristics of the visual cue are defined relative to temporal and spatial characteristics of an associated visual component.

Applicant respectfully disagrees with this interpretation of Lemmons. As those of ordinary skill in the art would clearly understand by referring to markup language document 300, there is no disclosure of a positional relationship amongst <T1>, <T2>, and <T3>. Rather, it is clear that the positions of <T1>, <T2>, and <T3> are defined independently. In the words of Lemmons:

“Tags 306 are *generically labeled* T1, T2, and T3 to indicate which display element is being tagged (display element 1, display element 2 and display element 3, respectively).” (Lemmons, column 9, lines 12 to 14, emphasis added).

It is therefore evident that Lemmons does not suggest spatial characteristics of a visual cue that are defined relative to spatial characteristics of an associated visual component, as set out in the claims herein.

Moreover, those of ordinary skill would further recognize that Lemmons' use of the letter “T” in its tags <T1>, <T2>, and <T3> in no way suggests a notation of

time. Rather, use of the letter "T" is seen to be a "generic label" for tags. See Lemmons at column 9, quoted above. Thus, Applicants respectfully submit that Lemmons has no disclosure of a temporal element.

As for the patent to Kaiser, it is understood that Kaiser describes an apparatus and system for providing action selection to an image referencing a product in a video production. Figure 6D of Kaiser, which was cited at page 6 of the Office Action, illustrates that action selection interface 6300 is displayed above video production 6600. Even with such a disclosure, however, there is no explanation with respect to definition of a position of action selection interface 6300 within the video production itself.

It is therefore respectfully submitted that even when considered in the combination proposed by the Office, the applied art does not disclose or suggest the features claimed herein, and in particular does not disclose or suggest that (1) temporal and spatial characteristics of a visual cue are defined relative to temporal and spatial characteristics of an associated visual component, and (2) a display of the visual cue superimposed over the visual component defined by an XML-based element. Accordingly, it is respectfully asserted that the claims herein define subject matter that would not have been obvious to those of ordinary skill in the art, at the time of the invention, and allowance is respectfully requested.

Regarding a formal matter concerning the drawings, it is respectfully requested to receive approval for the substitute drawing sheet transmitted with a Letter dated February 13, 2009.

Applicants' undersigned attorney may be reached in our Costa Mesa, California office at (714) 540-8700. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,



Attorney for Applicants
Michael K. O'Neill
Registration No. 32,622

FITZPATRICK, CELLA, HARPER & SCINTO
1290 Avenue of the Americas
New York, New York 10104-3800
Facsimile: (212) 218-2200

FCHS_WS 4748042v1